



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2018-0126; FRL-9995-67-Region 5]

Air Plan Approval; Indiana; SO₂ Emission Limitations for United States Steel-Gary Works

AGENCY: Environmental Protection Agency (EPA)

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a March 6, 2018 request by the Indiana Department of Environmental Management (IDEM) to revise its State Implementation Plan (SIP) for the United States Steel-Gary Works coke plant. The submission involves the removal of sulfur dioxide (SO₂) emission limitations for the coke plant at the United States Steel-Gary Works (US Steel-Gary Works). The coke plant permanently ceased operation on March 30, 2015. The submission also contains several other administrative changes. The notice of proposed rulemaking (NPRM) associated with this final action was published on February 13, 2019. EPA received several comments.

DATES: This final rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2018-0126. All documents in the

docket are listed on the www.regulations.gov web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through www.regulations.gov or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Emily Crispell, Environmental Scientist, at (312) 353-8512 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Emily Crispell, Environmental Scientist, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8512, crispell.emily@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. Background
- II. Public Comments and EPA Responses

III. What Action is EPA Taking?

IV. Incorporation by Reference.

V. Statutory and Executive Order Reviews.

I. Background

On March 30, 2015, US Steel-Gary Works permanently ceased the operation of its coke plant. IDEM has verified that the coke plant units were decommissioned and permanently shut down. IDEM then removed the coke plant units from US Steel Gary-Works Part 70 operating permit (IDEM permit number 089-37337-00121 and 089-35392-00121). IDEM has also revised the SO₂ SIP rules for US Steel-Gary Works, which are currently codified at 326 Indiana Administrative Code (326 IAC) 7-4.1-20, by removing the SO₂ emission limitations applicable to the coke plant operation which allowed SO₂ emissions from the coke plant. SO₂ emission limitations which were not applicable to the coke plant operation were retained. US Steel-Gary Works would be required to reapply for a Title V operating permit to reopen the coke plant facility. Administrative changes such as renumbering were also made. EPA proposed approval of the SIP on February 13, 2019, and started a 30-day public comment period on the proposal. 84 FR 3740.

II. Public Comments and EPA Responses

The public comment period on EPA's February 13, 2019 NPRM closed on March 15, 2019. EPA received four comments. One of

the comments was not relevant to the proposed action and three were relevant and adverse. EPA's response to the comments are as follows:

Comment 1: The commenter stated that SO₂ is harmful to the environment. The commenter also noted that it is a good idea to have emission limitations on large companies. The commenter further stated that SO₂ is one of the main reasons for acid rain, which can harm infrastructure and wildlife.

EPA Response 1: The environmental effects information provided by the commenter is not in dispute in this rulemaking. This rulemaking instead addresses whether IDEM's SIP revision is adequate to meet the requirements of Clean Air Act (CAA) section 110(1) which provide that EPA shall not approve a SIP revision if the plan would interfere with any applicable requirement concerning attainment of the National Ambient Air Quality Standards (NAAQS) and Reasonable Further Progress (as defined in Section 171 of the CAA), or any other applicable requirement of the CAA. EPA proposed to find that IDEM's SIP revision is consistent with CAA section 110(1) because the changes to the facility will result in a decrease in SO₂ emissions in excess of 3,792 tons per year. See 84 FR 3741. US Steel-Gary Works will still retain enforceable SO₂ emissions limits from operating scenario b of the original rule for its remaining operating emissions units. The effect of removing the limits that applied

to the coke plant (and of retiring the permit terms that authorized such emissions described in IDEM permit number 089-37337-00121 and 089-35392-00121) is to eliminate the allowable coke plant SO₂ emissions that were previously authorized.

Comment 2: The commenter stated that numerous studies have shown the harmful health effects of SO₂ on humans and animals, including respiratory problems and fatality when inhaled in large quantities. The commenter also claimed that the wording of the revision was vague, stating that an overall reduction in SO₂ would be allowed, but without a concrete value. The commenter also stated that the rule is unenforceable and lacks specificity.

EPA Response 2: The NPRM specifically states that changes to the facility will result in a decrease in SO₂ emissions in excess of 3,792 tons per year. 84 FR 3741. Concerning the enforceability of the emission limits at US Steel-Gary Works, the changes to and approval of the rule into the SIP removes the previously allowable levels of SO₂ emissions from the now-shutdown coke plant. This, combined with the removal of permit terms allowing coke plant SO₂ emissions, has the effect of not allowing any SO₂ emissions to occur from the coke plant. If the coke plant were to come back into operation, before it could have any SO₂ emissions it would have to obtain regulatory and/or permit terms that would make such emissions permissible at all

and set new emission limits that are both state and federally enforceable. Regarding the commenter's statement about the health effects, EPA finds that this SIP revision provides for a reduction in excess of 3,792 tons per year in allowable SO₂ emissions and does not interfere with Indiana's ability to attain or maintain the NAAQS which are protective of public health.

Comment 3: The commenter stated that there should be no tolerances for SO₂ emissions, and that SO₂ emission limitations should not be removed. The commenter noted that SO₂ is partly responsible for acid rain, which is one of the main reasons that the CAA was amended. The commenter added that companies should have SO₂ limitations and that the removal of SO₂ standards would be "disastrous" to our environment. The commenter also believes that EPA should stop issuing permits that allow facilities to emit SO₂ and EPA should research technology to produce power or products without emitting harmful pollutants.

EPA Response 3: This action removes references to emission limitations for decommissioned emissions units associated with the coke plant at US Steel-Gary Works which were permanently shut down on March 30, 2015. By removing the limits for the shutdown coke plant units and by surrendering its permit terms for those emission units, US Steel-Gary Works is no longer allowed to emit SO₂ from those coke plant emission units without

obtaining enforceable operating permits. By removing those emissions limits US Steel-Gary Works will reduce allowable emissions of SO₂ by approximately 3792.2 tons per year. This rulemaking does not increase any allowable emissions at US Steel-Gary Works. All remaining emissions units at US Steel-Gary Works, which were not associated with the coke plant, are retaining enforceable emissions limits from operating scenario b of the original rule.

The commenter's statement about the removal of the SO₂ standards being disastrous to the environment is unrelated to this rulemaking. The standards for SO₂ are regulated under the NAAQS. Regarding the commenter's statement that EPA should stop issuing permits that allow facilities to emit SO₂, the CAA title V part 70 permitting program allows states to issue legally enforceable operating permits that are compliant with the NAAQS. Lastly, the commenter stated that EPA should research clean energy technology. EPA provides grants to institutions researching clean energy technology and EPA's clean energy programs can be found on this website <https://www.epa.gov/energy/clean-energy-programs>.

III. What Action is EPA Taking?

EPA is approving IDEM's March 6, 2018 submittal as a revision to its existing SIP for US Steel-Gary Works. Specifically, EPA is approving revisions to Indiana rule 326 IAC

7-4.1-20 "U.S. Steel-Gary Works sulfur dioxide emission limitations".

IV. Incorporation by Reference.

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Indiana Regulations described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available through www.regulations.gov, and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.¹

V. Statutory and Executive Order Reviews.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR

¹ 62 FR 27968 (May 22, 1997).

52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,
Incorporation by reference, Intergovernmental relations,
Reporting and recordkeeping requirements, Sulfur oxides.

Dated: June 13, 2019.

Cathy Stepp,
Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In § 52.770, the table in paragraph (c) is amended under “Article 7. Sulfur Dioxide Rules,” “Rule 4.1. Lake County Sulfur Dioxide Emission Limitations,” by revising the entry for “7-4.1-20” to read as follows:

§ 52.770 Identification of plan.

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(c) * * *

EPA—APPROVED INDIANA REGULATIONS

| Indiana citation | Subject | Indiana effective date | EPA approval date | Notes |
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| * * * * * | | | | |
| Article 7. Sulfur Dioxide Rules | | | | |
| * * * * * | | | | |
| Rule 4.1. Lake County Sulfur Dioxide Emission Limitations | | | | |
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| 7-4.1-20 | U.S. Steel-Gary Works sulfur dioxide emission limitations | 2/21/2018 | [insert date of publication in the Federal Register], [insert Federal Register citation] | |
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[FR Doc. 2019-13494 Filed: 6/26/2019 8:45 am; Publication Date: 6/27/2019]